

# **Manual for Boards of County Canvassers**



**Michigan Department of State  
Bureau of Elections**

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## **QUESTIONS?**

**If you have any questions regarding the contents of this manual or the governing provisions of Michigan election law, MCL 168.1-991, please do not hesitate to contact the Michigan Department of State, Bureau of Elections, Post Office Box 20126, Lansing, Michigan 48901.**

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## INTRODUCTION

Michigan election law was amended in 1963 to establish procedures for the appointment of a four-member Board of County Canvassers in every county in the state. (MCLA 168.24a-168.24f) Prior to 1963, county canvassers were elected. While the procedures for filling positions on county canvassing boards have changed over the years, the responsibilities of the boards have remained as follows:

**COMPLETES CANVASS AND CERTIFICATION OF PRIMARIES AND ELECTIONS:**

The Board is responsible for canvassing and certifying primaries and elections held in the county. In specified instances, county canvassing boards are required to forward the results obtained for primaries and elections to the Board of State Canvassers in Lansing.

**CONDUCTS RECOUNTS:** The Board is responsible for conducting recounts of votes cast at primaries and elections held in the county.

**TESTS DEFECTIVE VOTING EQUIPMENT:** The Board is responsible for resolving any allegations that malfunctioning voting equipment may have affected the outcome of a vote on an office appearing on the ballot. The testing procedures are **not** carried out unless an aggrieved candidate files a petition asserting a voting equipment problem.

The Board is also responsible for resolving any allegations that malfunctioning voting equipment may have affected the outcome of a vote on a proposal appearing on the ballot. The testing procedures are **not** carried out unless a voter who participated in the election files a petition asserting a voting equipment problem.

**INSPECTS BALLOT CONTAINERS:** Every four years the Board is responsible for inspecting all of the ballot containers used in the county.

This manual outlines the procedures a Board of County Canvassers must follow when fulfilling the above responsibilities.

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## **I. COMPOSITION OF BOARD AND CONDUCT OF MEETINGS**

Each Board of County Canvassers has four members. (MCLA 168.24a(1)) The two political parties that cast the greatest number of votes for the office of Secretary of State at the last election at which the office was filled are each permitted to have two representatives on the Board. (MCLA 168.24c) The county clerk serves as clerk of the Board. (MCLA 168.24e) (The county clerk does not have a vote on the Board.)

### **Terms of Board Positions**

Each Board member serves a four-year term. The terms of the members are staggered so that both parties represented on the Board have one member's term expiring on October 31 of each odd-numbered year. New terms commence on November 1. (MCLA 168.24a(3))

### **Qualifications of Board Members**

To serve on the Board, a person must be a "qualified elector" of the county and must take and subscribe to the constitutional oath of office. An elected public officer may not serve on the Board. If a member of the Board becomes a candidate for public office or accepts a position as a precinct inspector, his or her position on the Board becomes vacant. (MCLA 168.24b; Art. II, Sec. 7, of State Constitution) As precinct delegates are not considered "public officers," a Board member may seek and accept a precinct delegate position.

### **Regular Appointments to Board**

To fill expiring terms on the Board, the county committee of each political party is required to submit to the county clerk not later than September 1 of each odd-numbered year, the names of the three persons qualified to serve on the Board. (A Board member whose term is expiring may be named among the three nominees.) In a county having two or more congressional districts within its boundaries, the congressional district committees submit the names to the county clerk instead of the county committees. The county clerk presents the submitted names to the members of the Board of County Commissioners who are then required to fill each vacant position with one of the three persons nominated for the position. Michigan election law stipulates that the Board of County Commissioners must elect the positions "by ballot." The county clerk is responsible for notifying persons placed on the Board of County Canvassers within five days after the Board of County Commissioners acts to fill the positions. (MCLA 168.24a(3); 168.24c)

## Vacancies on Board

A vacancy is created on the Board if a Board member 1) dies 2) resigns 3) becomes a candidate for public office 4) accept a position as a precinct inspector 5) moves from the county 6) fails or refuses to take the constitutional oath of office or 7) is removed from office under proper authority. When a vacancy occurs on the Board, the county clerk immediately gives notices of the vacancy to the county chairperson of the political party represented by the position involved. Within 10 days after the county political party chairperson receives notice of the vacancy, the county political party committee is required to submit to the county clerk the names of three persons qualified to serve on the Board. Within 10 days after receiving the three names, the county clerk makes the necessary appointment. A person appointed to fill a vacancy on the Board serves for the balance of the unexpired term. (MCLA 168.24b; Art. II, Sec. 7, of State Constitution) The county clerk is responsible for notifying persons appointed to fill vacancies on the Board of County Canvassers within five days after their appointment. (MCLA 168.24a(3))

## Compensation of Board Members

The rate of pay the members of the Board of County Canvassers receive is dependent on the population of the county. Payments are made by the county treasurer upon the warrant of the county clerk. (MCLA 168.24f; 168.24h)

- If the county's population is **less than 475,000**, the members of the Board receive "actual and necessary expenses incurred in the performance of their official duties, and in addition shall be paid the same daily rate as is paid the members of the board of commissioners for meetings." (MCLA 168.24f(2))
- If the county's population is **475,000 or more but less than 1,500,000**, the members of the Board receive "actual and necessary expenses incurred in the performance of their official duties and in addition shall be paid at a rate which is equal to the per diem rate paid to the county board of commissioners for meetings, or which is equal to  $\frac{1}{2}\%$  [.005] of the annual salary paid to members of the county board of commissioners, whichever is greater." (MCLA 168.24f(1))
- If the county's population is **1,500,000 or more**, the members of the Board receive "actual and necessary expenses incurred in the performance of their official duties, and in addition shall be paid a daily rate of \$25.00 for meetings and \$50.00 for recounts." (MCLA 168.24h)

## Organization of Board

The Board of County Canvassers meet during the month of January in each even-numbered year to elect a Board chairperson and vice-chairperson. (MCLA 168.24e) Board officers serve a two-year term. It is recommended that the Board "split" the party affiliation of the two Board officers and rotate the offices between the two parties every two years. For example, if a Board member representing Party A is elected chairperson, a Board member representing Party B should be elected vice-chairperson. At the next election of Board officers, a Board member representing Party B should be elected chairperson and a Board member representing Party A should be elected vice-chairperson. Newly appointed Board members who have not yet taken

the constitutional oath of office when the January organizational meeting is convened should take the oath before any business is transacted at the meeting. This includes Board members reappointed to fill a new term.

### **Frequency of Meetings**

The Board meets as required to meet its statutorily specified duties and responsibilities. (MCLA 168.24e) Generally, meetings of the Board are called by the county clerk in his or her capacity as Board clerk. The Board chairperson and vice-chairperson also have the authority to call meetings of the Board.

### **Posting Requirement**

Board of County Canvasser meetings are open to the public under the Open Meetings Act. (MCLA 15.261) When a Board meeting is scheduled, public notice of the meeting must be posted at least 18 hours prior to the commencement of the meeting. (MCLA 15.265)

### **Quorum Required**

Any three members of the Board constitute a quorum. It is emphasized, however, that the Board does not have the authority to take an action unless there is bi-partisan support for the action. Thus, if three Board members are present, two members representing *the same political party* cannot adopt or reject a motion without the concurrence of the third member. (MCLA 168.24e)

### **Minutes**

The county clerk is responsible for taking notes at Board meetings. (This responsibility may be delegated.) After the adjournment of a Board meeting, the clerk drafts minutes of the meeting from the notes he or she has recorded on the Board's actions and forwards a copy of the draft to each member of the Board. At the following Board meeting, the Board members adopt or reject, by a vote of the Board members, the minutes submitted by the clerk. Adopted minutes are signed by all Board members. Rejected minutes are revised as necessary and resubmitted at the Board's subsequent meeting.

### **Temporary Members**

When a meeting is called for the Board to perform a statutorily specified duty and a quorum cannot be convened, the county clerk may appoint temporary members to the Board. To accommodate such instances, the county clerk should keep on file a list of persons recommended by the political parties to fill temporary appointments. A temporary appointee must have the qualifications to serve on the Board and must be affiliated with the political party of the Board member he or she is replacing. When temporary appointments to the Board are necessary, it is recommended that **all** absences on the Board be temporarily filled to remove any appearances of partisanship. In other words, if two Board members are absent, two temporary appointments should be made; if three Board members are absent, three temporary appointments should be made; and if all four Board members are absent, four temporary appointments should be made.



Temporary appointees on the Board serve only until the business at hand has been transacted. (MCLA 168.30g)

### **Employment of Board Assistants**

The Board has the authority to employ assistants to help perform its duties in a timely manner. The rate of pay for the assistants is specified by the Board and is paid from a special appropriation made by the Board of County Commissioners. (MCLA 168.24e)

### **Board Budget**

It is recommended that the Board work with the county clerk to prepare its yearly budget. Budget considerations should include 1) the Board's rate of pay 2) the number of meetings to be held in the ensuing 12 months 3) the number of assistants the Board expects to hire in the coming year and 4) the hourly rate to be paid to the assistants.

## II. AUTHORITY TO CANVASS AND CERTIFY PRIMARIES AND ELECTIONS

A Board of County Canvassers' principal responsibility is to canvass and certify specified primaries and elections held in the county. The Board "canvasses" primaries and elections by carefully reviewing and authenticating various forms and certificates completed to document the vote cast at the polls. The Board "certifies" a **primary** by declaring the final vote totals obtained at the primary, the names of the nominees for the offices involved and the outcome of any questions on the ballot. The Board "certifies" an **election** by declaring the final vote totals obtained at the election, the names of the candidates elected to the offices involved and the outcome of any questions on the ballot. In certain specified instances, the Board canvasses the votes cast for an office or on a ballot question and forwards the results to the Board of State Canvassers for the certification step. The following outlines a Board of County Canvassers' responsibilities with regard to canvassing and certifying primaries and elections.

### Federal and State Partisan Offices

The Board of County Canvassers is responsible for **canvassing** the votes cast in the county at a primary or general election for the following federal and state partisan offices (an asterisk indicates that the office appears only on the general election ballot): \*president and vice-president (candidates for president and vice-president run as a "team" in the general election), U.S. senator, representative in congress, governor, \*lieutenant governor (candidates for governor and lieutenant governor run as a "team" in the general election), \*attorney general, \*secretary of state, state senator, state representative, \*state board of education member, \*University of Michigan regent, \*Michigan State University trustee, and \*Wayne State University governor. The Board of County Canvassers **certifies** the votes cast at a primary or general election for the office of representative in congress, state senator and state representative if the district involved is wholly contained within the county. In all other instances, the Board of County Canvassers forwards the votes cast at a primary or general election for the state and federal partisan offices named above to the Board of State Canvassers for the certification step. (MCLA 168.167; 168.171; 168.581; 168.826)

### County Partisan Offices

The Board of County Canvassers is responsible for **canvassing and certifying** the votes cast at a primary or general election for all county partisan offices. (MCLA 168.197; 168.201; 168.228; 168.232; 168.258; 168.262; 168.826)

### State and County Judicial Offices

The Board of County Canvassers is responsible for **canvassing** the votes cast in the county at a primary or general election for the following judicial offices (an asterisk indicates that the office

appears only on the general election ballot): \*supreme court justice, Court of Appeals judge, Circuit Court judge, District Court judge, Probate judge (single county district) and District Probate judge (multi-county district). The Board of County Canvassers **certifies** the votes cast at a primary or general election for the office of Probate judge (single county district). In all other instances, the Board of County Canvassers forwards the votes cast at a primary or general election for the judicial offices named above to the Board of State Canvassers for the certification step. (MCLA 168.397; 168.409f; 168.415; 168.417; 168.435; 168.467g)

### **City and Township Offices**

The Board of County Canvassers is responsible for **canvassing and certifying** the votes cast at a primary or election for any city or township office **if the city or township has five (5) precincts or less**. A city of five (5) or less precincts that crosses county boundaries has its primaries and elections canvassed and certified by the county that contains the greatest number of registered voters in the city at the close of registration for the primary or election at hand. If the city or township has six (6) or more precincts, Michigan election law requires that the jurisdiction create its own local canvassing board for certifying the votes cast at a primary or election conducted in the jurisdiction. A city or township that is required to create its own canvassing board may contract with the County Board of Commissioners to have the Board of County Canvassers canvass and certify primaries and elections conducted within the jurisdiction. Michigan election law provides that under such arrangements, the contract “may provide that the city or township ... bear all or part of cost of such work.” A city of six (6) or more precincts that crosses county lines that wishes to contract out the responsibilities of its canvassing board is required to make such arrangements with the county clerk that contains the larger portion of the city’s population. (MCLA 168.24a; 168.30a; 168.355; 168.360; 168.826)

### **Local Judicial Offices**

In those cities where the office of Municipal Court judge is elected, the Board of City Canvassers is responsible for **canvassing and certifying** the votes cast at a primary or general election for the office. (MCLA 168.426f; 168.426l)

### **Village Offices**

In all counties except Wayne, the Board of County Canvassers is responsible for **canvassing and certifying** the votes cast at a primary or election for any village office. In Wayne County, a village has the option of maintaining its own canvassing board. (MCLA 168.24a; 168.826)

### **School District Offices**

Except as provided under the two exceptions noted below, the Board of County Canvassers is responsible for **canvassing and certifying** the votes cast at a school district election for the office of school board member. A school district that crosses county boundaries has its elections canvassed and certified by the county that contains the greatest number of registered voters in the district at the close of registration for the election at hand. (MCLA 168.24a; 168.826) The exception are as follows:

- In those school districts where the greatest number of registered voters in the district reside in Wayne County, the Michigan School Code specifies that a Board of School Canvassers be established to canvass and certify the votes cast at a school district election for the office of school board member. (MCLA 380.1010; 380.1011)
- In those instances where 1) the school district is wholly contained within the boundaries of a city required to establish its own canvassing board and 2) the school district holds its elections in conjunction with the city's elections, the Board of City Canvassers is responsible for canvassing and certifying the votes cast at an election held in the school district for the office of school board member. (MCLA 168.30a(1)) (Note that this provision does not preclude the city from contracting with the county to have primaries and elections conducted within the city and school district canvassed and certified by the Board of County Canvassers.)

### **Community College District Offices**

The Board of County Canvassers is responsible for **canvassing and certifying** the votes cast at a community college district election for the office of community college board trustee. A community college district that crosses county boundaries has its elections canvassed and certified by the county "containing the highest valuation of the community college district or proposed community college district." (MCLA 389.17)

### **State, County, Local, School District and Community College District Ballot Issues**

The votes cast for and against ballot issues place on the ballot at state, local, school district and community college district primaries and elections are canvassed and certified as follows:

- The Board of County Canvassers is responsible for **canvassing** the votes cast in the county on a statewide ballot issue. The Board of County Canvassers forwards the results obtained on a statewide ballot issue to the Board of State Canvassers for the certification step. (MCLA 168.826; 168.841)
- The Board of County Canvassers is responsible for **canvassing and certifying** the votes cast in the county on a countywide question. (MCLA 168.826)
- The votes cast for and against ballot issues placed on the ballot at a city, township, village, school district or community college district primary or election are canvassed and certified by the county or local canvassing board responsible for canvassing and certifying the votes cast on offices up for election in the jurisdiction. (MCLA 168.24a; 168.826; 389.17; 389.21; 389.37; 389.57)

### **Special Primaries and Elections**

The votes cast for and against ballot issues and offices placed on special primary and special general election ballots by the state or a county, city, township, village, school district, community college district or a district library are canvassed and certified by the canvassing

board responsible for canvassing and certifying the votes cast at regularly scheduled primaries and elections within the jurisdiction. (MCLA 168.533)

### **Recall Elections**

The Board of County Canvassers is responsible for **canvassing** the votes cast in the county for and against the recall of a federal, state or county officer (except the office of county commissioner). The Board of County Canvassers forwards the results obtained to the Board of State Canvassers for the certification step. The Board of County Canvassers is responsible for **canvassing and certifying** the votes cast in the county for and against the recall of a county commissioner or a city, township, village or school official. (MCLA 168.968) A recall election held within a city or school district that crosses county boundaries is canvassed and certified by the county that contains the greatest number of registered voters in the jurisdiction. (MCLA 168.24a; 168.960; 168.968) An election held to fill a vacancy created by the recall of an officer is canvassed and certified by the canvassing board responsible for canvassing and certifying the votes cast at regularly scheduled primaries and elections within the jurisdiction. To emphasize: While local canvassing boards are **not** used to canvass or certify the votes cast in a recall election conducted on the local level, local canvassing boards **are used** to canvass and certify the votes cast in an election held on the local level to fill a vacancy created by the recall of an officer.

### **Reimbursement of Costs to County**

Michigan election law states: “The cost of canvass of school, city, township, and village elections shall be borne by the school district, city, township, or village holding the election, and upon presentation of a bill for the costs incurred by the board of county canvassers, the school district, city, township, or village shall reimburse the county treasurer.” (MCLA 168.24a(1))

### III. THE MANAGEMENT OF A COUNTY CANVASS

The following outlines the provisions of Michigan election law which govern the management of a primary or election canvass conducted on the county level.

#### **Commencement and Completion of Canvass**

A canvass conducted on the county or local level must be completed within **14 calendar days** after its commencement. (MCLA 168.822) The commencement date of a canvass depends on the type of primary or election held.

- After an August primary, a November general election or a presidential primary, the Board of County Canvassers must meet to begin the canvass at 1:00 p.m. on the day after the primary or election. (MCLA 168.821)
- After a special election held on an annexation, incorporation or consolidation, the local or county board responsible for the canvass must meet to begin the canvass no later than the first Thursday after the election. (MCLA 117.12)
- After any other type of primary or election, the local or county board responsible for the canvass must meet to begin the canvass no later than the fifth day after the primary or election. (MCLA 168.821)

#### **Failure to Perform Canvassing Duties: Local and County Level Canvassing Boards**

The authority for canvassing and certifying the votes cast at a primary or election is transferred as described below if the canvassing board responsible for the completion of the work fails to perform its duties within the allotted time period.

**FAILURE ON LOCAL LEVEL:** If a Board of City Canvassers or a Board of Township Canvassers fails to canvass and certify **within 14 calendar days after the election** the votes cast for and against a ballot issue or for an office voted on within the jurisdiction, the city or township clerk immediately delivers all of the necessary forms and documents to the county clerk. The Board of County Canvassers is then responsible for completing the remaining work involved **within seven (7) calendar days after the county clerk's receipt of the records.** The city or township is responsible for the costs the county incurs in completing the canvass and certification. (MCLA 168.30e) The Board of County Canvassers may enlist the assistance of the Board of City Canvassers or the Board of Township Canvassers to complete the remaining work involved.

**FAILURE ON COUNTY LEVEL:** If a Board of County Canvassers fails to canvass and/or certify **within 14 calendar days after the commencement of the canvass** the votes cast for and

against a ballot issue or on any office voted on within the county, the Board immediately delivers all of the necessary forms and documents to the Secretary of State. The Board of State Canvassers is then responsible for completing the remaining work involved **within 10 calendar days after the Secretary of State's receipt of the records.** The county is responsible for the costs the Board of State Canvassers incurs in completing the canvass and certification. The same procedure is followed if the Board of County Canvassers fails to complete **within seven (7) calendar days** work left unfinished by a Board of City Canvassers or a Board of Township Canvassers. (MCLA 168.822) The Board of State Canvassers may enlist the assistance of the Board of County Canvassers or a local canvassing board to complete the remaining work involved.

### **Principal Documents Employed to Complete Canvass**

The following lists the principal documents used to canvass and certify a primary or election:

- **POLL BOOKS** document the ballots issued, cast, rejected and spoiled in a voting precinct or an absent voter counting board precinct.
- **TALLY SHEETS** document any “hand tallying” of paper ballots carried out in a voting precinct or an absent voter counting board precinct.
- **THE STATEMENT OF VOTES** documents the final vote totals obtained in a voting precinct or an absent voter counting board precinct.
- **THE COUNTY CANVASSERS' STATEMENT** documents the votes cast in each precinct in the county for each candidate and question on the ballot. The Board of County Canvassers is responsible for completing the form.
- **THE STATE VOTE TOTAL FORM** is used to transmit the total votes cast in the county at an August primary, November general election or presidential primary for the candidates who sought the federal, state and judicial offices on the ballot.

### **Delivery of Records to Board of County Canvassers**

Before the procedures for canvassing and certifying a primary or election can be carried out, the various forms and certificates completed to document the vote cast at the polls and by the absent voters must be secured and delivered as appropriate to the Board of County Canvassers. The following outlines the manner in which the records needed to certify and canvass a primary or election on the county level are assembled. (MCLA 168.809)

- Immediately after the close of the polls the election inspectors complete the precinct's records. One of the Statement of Votes and one of the tally sheets (if a hand tally was completed in the precinct) are sealed with a red paper seal in an envelope addressed to the Board of County Canvassers. The envelope is delivered by the election inspectors to the official responsible for administering the election (city clerk, township clerk, village clerk or secretary of the school board). If the jurisdiction involved uses an optical scan or punch card voting system and has established a central counting center, the certifying board at the

counting center is responsible for preparing and delivering the envelope. The official responsible for administering the election delivers the envelopes addressed to the Board of County Canvassers to the Probate Judge in the county for safekeeping.

- In addition to the above, the election inspectors use a red paper seal to seal the second Statement of Votes and the Poll Book in an envelope addressed to the county clerk. If the jurisdiction involved uses an optical scan or a punch card voting system and has established a central counting center, the certifying board at the counting center is responsible for preparing the county clerk's envelope. The envelope is delivered to the county clerk as arranged by the official responsible for administering the election (city clerk, township clerk, village clerk or secretary of the school board). The county clerk uses the records in the envelope to compile the unofficial returns for the election.
- Prior to the commencement of the election canvass, the Probate Judge delivers the envelopes addressed to the Board of County Canvassers to the county clerk. When the Board of County Canvassers is assembled to begin the canvass, the county clerk presents the envelopes received from the Probate Judge (sealed) and the envelopes containing the records used to compile the unofficial returns for the election (seals broken) to the Board.

### **Scope of Authority When Conducting Canvass**

When conducting a canvass of votes, the Board of County Canvassers has the authority to take any of the actions listed below. (MCLA 168.823)

- Adjourn from day to day as necessary during the course of the canvass.
- Employ assistants as needed to conduct and complete the canvass.
- Direct that any records related to the election be presented at the canvass.
- Open ballot boxes to remove any records related to the election which have been secured in the ballot boxes. (The Board does **not** have the authority to remove the ballots secured in the ballot boxes.)
- Correct obvious mathematical errors made by the election inspectors or other canvassing boards. (All corrections should be made in red ink next to the inaccurate entries; the mistakes should not be erased!)
- Direct the election inspectors to correct precinct records found to be incorrect or incomplete.

**POWER TO CORRECT ERRORS IN PAPER BALLOT PRECINCTS:** If there appears to be a discrepancy in the records completed for a paper ballot precinct, the Board has the authority to summon the ballot boxes containing the ballots cast in the precinct and direct the precinct inspectors who served in the precinct to re-tally the ballots.

**POWER TO CORRECT ERRORS IN VOTING MACHINE PRECINCTS:** If there appears to be a discrepancy in the records completed for a voting machine precinct, the Board



has the authority to open the counter compartments of the voting machines used in the precinct to verify the vote totals recorded on the machine. If the discrepancy cannot be found and corrected through a re-canvass of the voting machines in the precinct, the Board may direct that the voting machines be tested for proper operation. In exercising these powers, the procedures provided under Michigan election law, MCLA 168.792, must be followed.

**POWER TO CORRECT ERRORS IN ELECTRONIC PRECINCTS:** If there appears to be a discrepancy in the records completed for an optical scan, punch card or direct recording electronic (DRE) precinct, the Board has the authority to:

- Examine the voting devices and ballot labels (punch card precincts).
- Direct the person who wrote the program to appear at the canvass with all papers and documents pertinent to the program to answer any questions relevant to the program.
- Direct the person who has custody of the program to 1) present the program at the canvass in its sealed container 2) remove the program from its container and 3) test the program to verify its accuracy. If the program is found to produce inaccurate results, the Board may require the programmer to submit a corrected program. Once the corrected program has been verified as accurate, the Board may direct the appropriate persons to retabulate the ballots and certify the results.
- Direct the person who has custody of the ballot containers to 1) appear at the canvass with the sealed containers 2) open them and 3) remove any documents required to complete the canvass.
- Direct the election inspectors who certified the returns to tabulate any uncounted ballots.

After exercising any of the above powers, the Board of County Canvassers is responsible for ensuring that all of the voting equipment involved is resealed and returned to the custody of the appropriate official. The serial numbers appearing on the seals used to reseat the voting equipment must be recorded in the proper Poll Books, on the appropriate Statement of Votes forms, on the ballot container tags and in the minutes of the Board's meeting. In addition, the Board of County Canvassers must secure all books, tally sheets and Statement of Votes forms in sealed envelopes. (MCLA 168.824(2))

It bears emphasis that the purpose of a canvass is to verify the proper completion of the records related to the election at hand. The investigation of alleged election law violations is **not** a part of the canvass. Consequently, the Board of County Canvassers does **not** have the authority to pass upon the legality of an election. In *McQuade v Furgason*, 91 Mich 438 (1892), the Michigan Supreme Court stated:

“(I)t is the settled law of this State that canvassing boards are bound by the return, and cannot go behind it, especially for the purpose of determining frauds in the election. Their duties are purely ministerial and clerical....”

Fur further information on the scope of a Board of County Canvassers' authority when canvassing an election, refer to Attorney General Opinion No. 6230, issued on June 14, 1984.

## **IV. THE PROCEDURES FOR CONDUCTING A COUNTY CANVASS: VERIFICATION OF RECORDS**

The successful completion of an election canvass rests on the verification of all records completed in the precincts. If any of the records are found to be incomplete or to contain errors other than minor omissions, spelling errors or obvious mathematical mistakes, the election inspectors who were responsible for completing the records must be summoned to the canvass to correct the documents. If errors in the records are found which require election inspectors to appear at the canvass, the Board should continue with the canvass while waiting for the election inspectors to appear. Unnecessary delays in the canvass must be avoided. After the completion of the canvass, the Board should advise the official responsible for administering the election of any errors or omissions which the Board found it necessary to correct.

The following provides a list of items the Board of County Canvassers must check on each precinct record.

### **Poll Books**

A Poll Book is completed by the election inspectors serving in each voting and absent voter counting board precinct. When reviewing a Poll Book, the Board should:

- Check the outside cover for proper completion.
- Check the oaths for proper completion. There must be a completed oath for every election inspector who served in the precinct. In addition, every oath must be signed by the person who administered it.
- Check the voter entries in the Poll Book for legibility and proper completion. If absent voter ballots were processed in the precinct, verify that the absent voters are identified with the letters "A.V." A ballot serial number must be shown beside the name of each voter if the Poll Book was completed for a paper ballot precinct, an optical scan precinct, a punch card precinct or an absent voter counting board precinct. If the Poll Book was completed for a voting machine precinct, a ballot serial number must be shown beside the name of any absentee voters listed.
- Examine the "Challenged Voters" section of the Poll Book. If challenges took place in the precinct, information regarding the challenges should appear. If no challenges took place in the precinct, the word "NONE" should appear.
- Examine the "Remarks Section" of the Poll Book to see if any unique circumstances occurred in the precinct which might affect the precinct's records.

- Check the election inspector's certificate on the last page of the Poll Book. The certificate must be complete in every detail and must be signed by every election inspector who served in the precinct.

### **Tally Sheets**

A tally sheet is included with the precinct's records if the election inspectors who served in the precinct hand tallied ballots cast in the precinct. In instances where no more than two ballot questions or two candidates appear on ballots which must be counted in the precinct, the election inspectors are free to sort and count the ballots. In such cases, the completion of a tally sheet is not required. When reviewing a tally sheet, the Board should:

- Verify that the names of all of the candidates and ballot questions that appeared on the ballot are listed on the tally sheet.
- Check the tally marks against the vote totals to verify that the totals are accurate.
- Verify that the candidates of each party on the ballot are credited with the same number of straight ticket votes. (Applies in general elections only; straight ticket votes cannot be cast in a primary.) Also verify that the total shown for each of the candidates reflects the sum of the straight ticket votes and the votes which were individually cast for the candidate.

### **Statement of Votes**

The vote totals obtained in the precinct for each candidate and ballot question on the ballot are documented on the precinct's Statement of Votes. The Statement of Votes may appear in a booklet, on a single sheet, as a tabulator tape or as a computer print-out. When reviewing a Statement of Votes, the Board should:

- Check the cover of the Statement of Votes booklet or the heading of the Statement of Votes sheet for completion.
- Use a sample ballot to verify that all of the candidates and ballot questions on the ballot are listed on the Statement of Votes. Do not overlook any minor party candidates or candidates without political party affiliation ("independent" candidates) on the ballot. Check the candidates' names for spelling. Check the ballot questions for wording and spelling.
- Check the computations used to arrive at all vote totals. Also check the vote totals against any supporting documents available (tally sheets, tabulator tapes or voting machine print-outs produced by "printer type" voting machines). If more than one voting machine was used in the precinct, verify that the totals from all machines have been added in for each candidate and ballot question. Analyze the vote totals as you check them. For example, does any one partisan candidate appear to have an unusually higher or lower vote total than the other candidates who ran under the same party ticket? If so, is there a logical explanation? If one position is being filled under an office title, do the votes cast for each candidate seeking the office add up to the total number of votes cast for the office?

- If voting machines were used in the precinct, verify that the protective counter numbers and the public counter numbers which appeared on the voting machines both before the polls opened and after the polls closed are recorded. The difference between a voting machine's protective counter number before the polls opened and after the polls closed should equal the number registered on the machine's public counter. Further, the total vote cast should equal the total number of names entered in the Poll Book. If you find a discrepancy in any of the numbers, check the "Remarks Section" of the Poll Book for an explanation before summoning the election inspectors who served in the precinct.
- If optical scan, punch card or paper ballots were used in the precinct, verify that the total number of ballots cast in the precinct as reflected on the Statement of Votes equals the total number of names entered in the Poll Book. If you find a discrepancy, check the "Remarks Section" of the Poll Book for an explanation before summoning the election inspectors who served in the precinct.
- Check the election inspectors' certificate. The certificate must be complete in every detail and must be signed by every election inspector who served in the precinct.

## **V. THE PROCEDURES FOR CONDUCTING A COUNTY CANVASS: COMPLETION OF CERTIFYING DOCUMENTS**

After the precinct records have been carefully inspected and corrected as necessary, the Board of County Canvassers must:

- Document on a County Canvassers' Statement the votes cast for each candidate and question on the ballot. (MCLA 168.824; 168.825)
- Determine the winning candidates and the outcome of ballot questions for those offices and ballot questions which the Board of County Canvassers is responsible for certifying. (MCLA 168.826)
- Transmit to the Secretary of State 1) the votes cast on offices and ballot questions which the Board of State Canvassers is responsible for certifying and 2) the votes cast on U.S. representative, state senate and state house seats which the Board of County Canvassers is responsible for certifying. (MCLA 168.827; 168.828)
- Transmit to the various local officials in the county election certifications and records as appropriate.

While the forms used to accomplish the above steps may vary from county to county, they serve the same functions. Each form used must be signed by all Board members present at the canvass. The following provides general instruction on the completion of the above steps.

### **Documentation of County Vote Totals**

To document the votes cast for each candidate and question on the ballot, the Board of County Canvassers completes a County Canvassers' Statement. The County Canvassers' Statement may be a booklet, a single-sheet document or a computer print-out.

- If the County Canvassers' Statement has been prepared for the Board by computer or other means, the Board is responsible for checking the figures to verify that no mistakes appear on the form. If the procedures followed in the county require the Board to complete the County Canvassers' Statement by hand, the Board members enter on the form the vote totals appearing on the Statement of Votes received from each precinct.
- In counties where the County Canvassers' Statement is completed by hand, it is recommended that two County Canvassers' Statements be completed by two teams working independently. The two Statements are then checked against one another to verify the accuracy of the figures entered on the forms. (The second team should not complete the

second County Canvassers' Statement by copying the figures from the first County Canvassers' Statement as this would defeat the purpose of the procedure!)

- Regardless of the procedures used in the county to produce the County Canvassers' Statement, it is essential that each candidate and question voted on in each precinct is listed; all figures are accurate; all math is accurate; and all entries are legible.

**WRITE-INS:** The entry of write-in votes on the County Canvassers' Statement requires special consideration. Election inspectors are instructed to record write-in votes exactly as they were cast. For example, the Board of County Canvassers may find that the following write-in votes were cast for a particular office:

John A. Smith – County Treasurer – 16 votes.  
Jon Smith – County Treasurer – 2 votes  
J.A. – County Treasurer – 1 vote  
J. Smithe – County Treasurer – 1 vote.

It is the Board of County Canvassers' responsibility to review all write-in votes and determine how they are to be counted. In *Petrie v Curtis*, 387 Mich 436 (1972), the Michigan Supreme Court stated:

“Where the intent of the voter as expressed by his ballot, when considered in the light of such surrounding circumstances, is not doubtful, the ballot should be counted and allowed for the person intended.”

Consequently, the Board may accept variations in the spelling of a write-in candidate's name if the candidate's identity can be determined without doubt.

A write-in vote for a candidate seeking nomination to a partisan office in a primary is not valid unless the candidate's **party affiliation** is indicated. As the candidate's party affiliation is a critical part of a write-in vote cast for a partisan office in a primary, the following two write-in votes could not be added together if cast at a primary:

Mary Anderson – Township Treasurer – Democrat – 1 vote.  
Mary Anderson – Township Treasurer – Republican – 1 vote.

Write-in candidates seeking election to a partisan office at a general election are required to run **without party affiliation**. If a voter casts a write-in vote for a candidate seeking election to a partisan office at a general election and indicates a party affiliation for the write-in candidate, the party affiliation is ignored. Consequently, the following write-in votes would be added together if cast at a general election.

Robert Jones – Township Supervisor – 32 votes.  
Robert Jones – Township Supervisor – Democrat – 4 votes.  
Robert Jones – Township Supervisor – Republican – 16 votes.

**“DECLARATION OF INTENT” REQUIREMENT:** It merits note that an individual who wishes to seek nomination or election to a federal, state, county, city, township, village or school office with write-in votes is required to file a “declaration of intent” with the appropriate election official by 4:00 p.m. on the Friday preceding the election. The local clerk is responsible for notifying the precinct board of any write-in candidates who filed a declaration of intent in a timely manner.

- A write-in vote cast for an individual who has **not** filed a declaration of intent **does not count**. Similarly, a write-in vote cast for an individual who filed a declaration of intent does not count unless the office for which the write-in vote was cast corresponds to the office identified on the declaration of intent; if a partisan primary, a write-in vote cast for an individual who filed a declaration of intent does not count unless the **office and party** correspond. Precinct boards do not record write-in votes which do not count for the above stated reason.
- The declaration of intent requirement is **waived** if a candidate appearing on the ballot for the office involved dies or is otherwise disqualified on or after the Wednesday immediately preceding the election. If the waiver is invoked, the precinct boards involved are instructed to record all write-in votes cast for the office including any write-in votes cast for candidates who did not file a declaration of intent.

### **Certifying Offices and Ballot Questions**

After the Board of County Canvassers has documented the votes cast for each candidate and ballot question on the ballot, the Board must determine the winning candidate and the outcome of ballot questions for those offices and ballot questions which the Board of County Canvassers is responsible for certifying. The offices and ballot questions which the Board is responsible for certifying are explained earlier in this manual. To complete the necessary certifications, the Board examines the vote totals for the offices and ballot questions involved. The determinations are entered on the appropriate pages in the County Canvassers’ Statement.

**WRITE-INS:** Again, write-in candidates require special consideration.

- If the office involved appears on a **partisan or nonpartisan general election ballot**, a write-in candidate is elected to the office if he or she receives more votes than any other candidate seeking the office; a minimum number of write-in votes is not required.
- If the office involved appears on a **nonpartisan primary ballot or a village partisan primary ballot**, a write-in candidate is nominated to the office if he or she receives more votes than any other candidate seeking nomination to the office; again, a minimum number of write-in votes is not required.
- If the office involved appears on any **partisan primary ballot other than a village partisan primary ballot**, a write-in candidate is nominated to the office if he or she 1) receives more votes than any other candidate seeking the position and 2) meets a vote threshold provided under Michigan election. (MCLA 168.582) Under the vote threshold formula, the number of votes received by the write-in candidate must equal the greater of the following:



- 1) 10 votes.
- 2) .15 of 1% (.0015) of the total population, as reflected by the last official federal census, of the district represented by the office sought by the write-in candidate.
- 3) **Apply following only if write-in candidate seeks nomination to an office for which only one candidate is to be elected:** 5% (.05) of the greatest number of votes cast by the write-in candidate's party for all candidates running for any office within the district represented by the office sought by the write-in candidate.
- 4) **Apply following only if write-in candidate seeks nomination to an office for which more than one candidate is to be elected:** 5% (.05) of the greatest number of votes cast by any party on the ballot for any candidate seeking the same office as the write-in candidate.

### **Transmitting Determinations, County Vote Totals and Precinct Results to Secretary of State**

The canvass of a state primary or general election includes the preparation of documents for the transmission of pertinent data to the Secretary of State.

- The Board of County Canvassers is responsible for forwarding to the Secretary of State any determinations made on U.S. representative, state senate and state house races. (As explained earlier, a Board of County Canvassers is responsible for certifying a primary or election held in a U.S. representative, state senate, or state house district if the district is wholly contained within the county.)
- After each statewide primary or election, the Board of County Canvassers is responsible for forwarding to the Secretary of State 1) the total vote cast in the county 2) the total vote cast in the county for each candidate seeking any of the offices listed below and 3) the total "YES" and "NO" vote cast in the county for any statewide proposals on the ballot. The form used to transmit the vote totals to the Secretary of State is provided by the Department of State's Bureau of Elections. The completed form must be in the mail **within 24 hours after the completion of the canvass**. The vote totals provided on the form are used by the Board of State Canvassers to complete the certification of the primary or election.

president and vice-president;  
 governor and lieutenant governor;  
 U.S. senator;  
 representative in congress;  
 secretary of state;  
 attorney general;  
 state senator;  
 state representative;  
 supreme court justice;  
 state board of education member;  
 University of Michigan regent;

Michigan State University trustee;  
Wayne State University governor;  
Court of Appeals judge;  
Circuit Court judge;  
District Court judge; and  
Probate District judge (multi-county district).

- In addition to the above transmission, the Board of County Canvassers is responsible for forwarding to the Secretary of State after each statewide primary or election 1) the total vote cast in **each precinct** in the county 2) the total vote cast in each precinct in the county for each candidate seeking any of the offices listed below and 3) the total “YES” and “NO” vote cast in each precinct in the county for any statewide proposals on the ballot. The form used to transmit the precinct results can be a computer print-out, computer tape, a photocopy of the appropriate pages of the County Canvassers’ Statement or, if the County Canvassers’ Statement is prepared in duplicate, the second copy of the Statement. Recommended data formats are available from the Department of State’s Bureau of Elections for counties that wish to transmit the precinct totals to the Secretary of State by computer tape or print-out. Like the county’s vote totals, the precinct results must be in the mail **within 24 hours after the completion of the canvass**. The precinct results provided by each county are used by the Department of State’s Bureau of Elections to compile statewide results by precinct for the offices and questions involved. (MCLA 168.812)

president and vice-president;  
governor and lieutenant governor;  
U.S. senator;  
representative in congress;  
secretary of state;  
attorney general;  
state senator;  
state representative;  
state board of education member;  
University of Michigan regent;  
Michigan State University trustee;  
Wayne State University governor;  
supreme court justice.

### **Transmitting Vote Totals and Precinct Results to Local Levels**

The canvass of a county or local primary or election includes the preparation of documents for the transmission of the results of the canvass to the appropriate local officials.

- If a county primary or general election is involved, additional documentation of the canvass is not necessary as the county clerk will have access to all of the original documents used and prepared at the canvass.
- If a city, township or village primary or general election is involved, the Board of County Canvassers sends the election official who administered the election (city clerk, township

clerk or village clerk) copies of the appropriate pages of the County Canvassers' Statement to show the total number of votes cast for each candidate and for and against each question on the ballot; a precinct breakdown of the vote totals; and the determinations made by the Board. The preparation of additional documents may be required. Arrangements for the completion of any additional documents are made by the county clerk with the local official involved.

- If a school election is involved, the Board of County Canvassers completes and sends to the secretary of the school board a specially prepared document to certify the total number of votes cast for each candidate and for and against each question on the ballot. The document may be supplied by the county clerk or the law firm that represents the school district. In addition, the following procedure is followed:
  - A copy of the election certification is sent to the county treasurer along with two acknowledgement forms. The county treasurer completes the acknowledgement forms and returns them to the county clerk. The county clerk forwards the completed forms to the secretary of the school board.
  - In addition, the county clerk provides the secretary of the school board with two acknowledgement statements to confirm that a certification of the election was provided to the school district and to the county treasurer.
  - The school district provides a copy of the election certification to the intermediate school district and to the clerk of each city, township and village in the school district. In addition, the school district provides its law firm with any requested documentation.

## **VI. THE PROCEDURES FOR CONDUCTING A COUNTY CANVASS: FINAL STEPS**

### **Breaking Tie Votes**

In those rare instances where it is revealed through the county canvass that two candidates are tied for nomination or election to an office certified by the Board, the tie is determined by a drawing. (A tie vote on a ballot question defeats the ballot question; a tie breaking procedure is not followed.) As an initial step, the Board consults with the county clerk to establish a date when the tied candidates and all interested parties can assemble in the office of the county clerk to participate in the drawing. Upon the establishment of a date, the Board sends notice of the meeting to the candidates and interested parties. At the meeting, the county clerk writes the word “ELECTED” on a slip of paper and the words “NOT ELECTED” on an identical slip of paper. Both of the slips are folded so that the words written on them cannot be seen and the two slips are indistinguishable from one another. Each candidate then draws one of the slips from a box. The candidate who draws the slip which bears the word “ELECTED” is deemed legally elected to the office involved. (MCLA 168.851)

- If an affected candidate fails to appear at the meeting, the county clerk has the authority to appoint any person present to draw a slip for the absent candidate.
- If the office of county clerk is involved, the drawing must be conducted before the county sheriff.
- The defeated candidate may petition for a recount of the votes cast on the office if he or she feels that a mistake has occurred in the canvass of the votes.
- It is recommended that a written record of the drawing be kept by the county clerk.

### **Release of Results**

After a general election, the county clerk is required to send the votes cast for candidates seeking the office of state senator or state representative to the newspapers in the county **if the office was certified by the Board of County Canvassers.** (MCLA 168.172) (As explained earlier, a Board of County Canvassers is responsible for certifying an election held in a state senate or state house district if the district is wholly contained within the county.) In all other instances, the county clerk may at his or her discretion notify the local media of the results of primaries and elections held in the county. (MCLA 168.826)

### **Issuance of Election Certificates**

After a federal, state, county, city, township or village election canvassed by the Board of County Canvassers, the county clerk is responsible for sending all candidates declared elected to office by the Board a certificate of election. (MCLA 168.826) After a school election canvassed by the Board of County Canvassers, the secretary of the school board is responsible for sending all candidates declared elected to office by the Board a certificate of election. (MCLA 380.1010)

### **Disposition of Election Documents**

The original County Canvassers' Statement executed by the Board of County Canvassers and all determinations made by the Board are forwarded to the county clerk. The materials are kept by the county clerk as a permanent record of the canvass. (MCLA 168.826) All of the other records used by the Board to complete the canvass are retained by the county clerk for two years after the primary or election. (MCLA 168.811)

## VII. RECOUNTS

A candidate for a federal, state, county, city, township, village or school office who feels that the canvass of the votes cast on the office is incorrect because of fraud or error in the precinct returns may petition for a recount of the votes cast in the precincts involved. Candidates seeking a precinct delegate position do not have the right to petition for a recount. (MCLA 168.862)

In addition, a registered elector eligible to vote on a question appearing on the ballot who feels that the canvass of the votes cast on the question is incorrect because of fraud or error in the precinct returns may petition for a recount of the votes cast in the precincts involved. (MCLA 168.863)

- A recount of the votes cast for a county, city township, village or school office or on a county, city, township, village or school ballot question is conducted by the Board of County Canvassers. (MCLA 168.24a) A recount of the votes cast for 1) a statewide office 2) the office of representative in congress, state senator or state representative or 3) a judicial office (except probate judge in a single county district) is conducted by the Board of State Canvassers. (MCLA 168.879)
- A person who wishes to obtain a recount must submit a written, notarized statement which specifies the office or question involved; alleges that the canvass of the vote cast for the office or on the question is in error; and identifies the precincts in which a recount of the votes cast is desired. (MCL 168.865) The written statement is commonly referenced as a “recount petition.” A \$10.00 deposit must be submitted with a recount petition for each precinct in which a recount is requested. The deposit is refunded if the recount changes the outcome of the election. If the recount does not change the result of the election, the deposit is kept by the county. (MCL 168.867)
- A recount petition is filed with the clerk of the board of canvassers that certified the office or ballot question. (**EXCEPTION:** A petition for a recount of the votes cast for the office of representative in congress, state senator or state representative is filed with the Secretary of State – even if the office is certified on the county level.) If the recount petition is filed on the county, city, township or village level, it must be received by the clerk no later than the sixth day after the completion of the canvass. If the recount petition is filed on the county level, a copy of the petition must be forwarded to the Secretary of State within two (2) days after its receipt. If the recount petition is filed on the city, township, village or school level, a copy of the petition must be forwarded to the county clerk within 24 hours of its receipt. (MCLA 168.866)
- Upon the receipt of a recount petition on the county level, the Board of County Canvassers is summoned by the county clerk to conduct the recount. **If the recount involves a county or district office or ballot question, the Board cannot begin the recount until after the county clerk has determined whether the county must participate in any recounts**

**requested on the state level.** If a recount petition has been filed on the state level which involves the county, the conduct of both recounts (the recount requested on the county level and the recount requested on the state level) are coordinated through the Department of State's Bureau of Elections. The Board of County Canvassers is not required to obtain state clearance to proceed with a recount of votes cast on a city, township, village or school office or on a question if the ballots involved are not sealed in ballot boxes containing ballots cast on state or county offices or questions. (MCLA 168.869)

- If a Board of County Canvassers recounts the votes cast on a city, township, village or school office or on a question, the expense of conducting the recount is charged back to the local unit. The local unit is then responsible for paying the expenses to the county treasurer. (MCLA 168.869)
- A recount is conducted as provided under Michigan election law, MCLA 168.841 – 894. If one or more optical scan, punch card or direct recording electronic (DRE) precincts are involved in the recount, the recount procedures provided under the Electronic Voting Rules must also be followed. (R 168.793)

## VIII. TESTING DEFECTIVE VOTING EQUIPMENT

The vote cast on an office or a ballot question is void if it can be proven under the procedures detailed below that a “defect in or a mechanical malfunction of a voting machine, voting device, ballot or other election equipment or material” could have made a difference in the outcome of the vote on the office or question. A special mail election is then conducted to correct the matter. (MCLA 168.831 – 839)

- If an office is involved, the procedures for conducting a special mail election are not initiated unless a candidate affected by the problem files a petition which requests that a special mail election be held. If a ballot question is involved, the procedures for conducting a special mail election are not initiated unless a registered elector who participated in the election (as evidenced by the Poll Book) files a petition which requests that a special mail election be held. (MCLA 168.832)
- A petition making such a request must be filed within ten (10) days **after the date of the election** with the clerk or secretary of the board of canvassers that certified the office or ballot question. (MCLA 168.832) (Note that the petition filing deadline could fall before the completion of the canvass.) The petition must describe the problem which may have affected the outcome of the vote on the office or ballot question; identify the precincts involved; list the number appearing on the voting machine(s) or voting device(s) involved (if applicable); and be signed and certified by the candidate or registered elector as appropriate. (MCLA 168.833)
- If a petition requesting a special mail election is filed on the county level, the county clerk reviews its contents to determine whether it complies with the requirements noted above. If the requirements have been met, the county clerk schedules a meeting of the Board of County Canvassers. The meeting must be held within five (5) days after the filing of the petition. The county clerk must contact the following persons by phone or a first class letter to advise them of the time and place of the meeting (MCLA 168.835):
  - The appropriate local election official.
  - **If an office on a special, general or nonpartisan ballot is involved:** All other candidates who sought the same office.
  - **If an office on a partisan primary ballot is involved:** All other candidates who sought nomination to the same office under the same party vignette.
  - **If a ballot question is involved:** The sponsor of the ballot question, any Ballot Question Committees organized to support or oppose the proposal, and the registered elector who filed the petition.



- When the meeting is held, the Board of County Canvassers reviews the facts involved and orders that a special mail election be held in each precinct affected by a “defect in or a mechanical malfunction of a voting machine, voting device, ballot or other election equipment or material” if the following is established: 1) an elector could not cast a valid vote in the precinct for the petitioning candidate or for or against the ballot question because of the defect or mechanical malfunction and 2) based on the available canvass, the number of electors who could not cast valid votes for the office or for or against the ballot question because of the defect or mechanical malfunction is greater than the number of votes separating the candidates getting the most and the second most number of votes or is greater than the number of votes separating the total “YES” votes and the total “NO” votes. If the number of votes for an office or for or against a ballot question recorded on a voting machine exceeds the number of electors who voted on the machine, then a special election is held if the number of excess votes recorded on the machine is greater than the number of votes separating the candidates getting the most and the second most number of votes or is greater than the number of votes separating the total “YES” votes and the total “NO” votes. (MCLA 168.836)
- If a special election is ordered by the Board of County Canvassers, mail ballots are sent to the electors who voted in the affected precinct(s) by the clerk of the city or township in which the precinct or precincts are located. The ballots must be sent within five (5) calendar days after the order for the special mail election is issued by the Board of County Canvassers. A note from the Board of County Canvassers must be included with each ballot which requests the elector to vote on the office or question as he or she voted (or attempted to vote) in the primary or election. (MCLA 168.837) It is important to note that the special mail ballots are sent to only those electors who **actually voted** in the precinct or precincts involved at the primary or election. If the absent voter ballots cast in the precinct were not affected, the special mail ballots are not sent to the absentee voters.
- The electors who are sent special mail ballots have five (5) calendar days to return them. (MCLA 168.837) The ballots are counted by a specially convened counting board. If the absent voter ballots cast in the precinct were not affected, the votes cast on the office or question by the precinct’s absent voters must be added to the tally of the special mail ballots. (MCLA 168.838)
- A recount of the votes cast under the special mail election provisions cannot be requested. (MCLA 168.839)

## IX. BALLOT CONTAINER INSPECTIONS

The Board of County Canvassers must complete a countywide ballot container inspection by June 1 of every gubernatorial election year. Ballot container “approved” and “disapproved” stickers are provided through the Department of State’s Bureau of Elections. (MCLA 168.24j)

All ballot containers owned by the county and the cities, townships, villages and school districts located within the county must be included in the inspection. The term “ballot container” is used to mean 1) traditional ballot cans used to transport and secure paper ballots 2) transfer cases used to transport and secure punch card ballots 3) any containers used to transport and secure optical scan ballots and 4) any containers used to secure electronic voting system programs and test data.

It merits note that ballot bags, used with traditional ballot cans when transporting and/or storing paper ballots, are not included under the inspection as a ballot bag cannot, by itself, be used as a ballot container.

### Approval Standards

**TRADITIONAL BALLOT CANS:** Michigan election law specifies that a ballot container must have an “... opening through the inside lid of the proper size to admit a single ballot ....” The law further specifies that ballot containers “... shall be provided with a second cover or a metal or wooden device for closing the opening to prevent access without unlocking the ballot box and breaking the seal.” (MCLA 168.669)

**TRANSFER CASES:** The Rules promulgated to administer electronic voting systems define a transfer case as a “metal container used for transporting and storing voted ballot cards.” The Rules further state that a transfer case must be “... capable of being sealed with a metal seal ....” (R 168.771(1)(bb))

**CONTAINERS USED TO SECURE AND TRANSPORT OPTICAL SCAN BALLOTS, ELECTRONIC VOTING SYSTEM PROGRAMS AND TEST DATA:** While such containers are available in a wide variety of shapes and sizes and may or may not require the use of specially designed seal adapters, the containers must be: 1) constructed of metal and 2) capable of being sealed with an approved seal which, after being attached to the container, prevents the insertion or removal of a ballot from the container without breaking the seal or damaging the container.